

## House Resolution 301

By: Representatives Stephenson of the 92<sup>nd</sup>, Lucas of the 139<sup>th</sup>, Dukes of the 150<sup>th</sup>, Morgan of the 39<sup>th</sup>, Mosby of the 90<sup>th</sup>, and others

## A RESOLUTION

1 Creating the Georgia Capital Punishment Study Commission to study the death penalty; to  
2 provide for the powers, duties, and compensation of its members; to suspend executions until  
3 such time as a report from such study commission is submitted to the General Assembly and  
4 the General Assembly and the Governor act in response to recommendations from the study  
5 commission; to provide for related matters; to repeal conflicting laws; and for other purposes.

6 WHEREAS, life is the most valuable possession of a human being; and

7 WHEREAS, the state should exercise utmost care to protect its residents' lives from  
8 homicide, accident, or arbitrary or wrongful taking of life by the state; and

9 WHEREAS, there has been increasing public awareness of cases of individuals wrongfully  
10 convicted of murder, in Georgia and elsewhere in the nation; and

11 WHEREAS, the General Assembly is troubled that the possibility of mistake in the death  
12 penalty process may undermine public confidence in our criminal justice system; and

13 WHEREAS, the execution of an innocent person by the State of Georgia would be a grave  
14 and irreversible injustice; and

15 WHEREAS, there is public concern that racial and socioeconomic factors influence decisions  
16 to seek or impose the death penalty; and

17 WHEREAS, there is a lack of any meaningful procedure to ensure uniform application of the  
18 death penalty in each county throughout the state; and

19 WHEREAS, the experience of this state with the death penalty has been characterized by  
20 significant expenditures of money and time; and

1 WHEREAS, in order for the state to protect its moral and ethical integrity, the state must  
2 ensure a justice system which is impartial, uncorrupted, equitable, competent, and in line  
3 with evolving standards of decency.

4 NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF  
5 GEORGIA:

6 **SECTION 1.**

7 There is created the Georgia Capital Punishment Study Commission. The commission shall  
8 be composed of 11 members. Appointments should reflect the diversity of the population  
9 of Georgia. Members shall be appointed as follows: three members appointed by the  
10 Governor, two of whom shall be appointed from the religious community in Georgia and one  
11 from the social work profession; two members appointed by the Senate Committee on  
12 Assignments, one of whom shall be Republican and one of whom shall be Democrat; two  
13 members appointed by the Speaker of the House of Representatives, one of whom shall be  
14 a Republican and one of whom shall be a Democrat; the director of the Office of the  
15 Multicounty Public Defender or his or her designee; the Attorney General or his or her  
16 designee; the president of the State Bar of Georgia or his or her designee; and the director  
17 of Murder Victims' Families for Reconciliation or his or her designee. Members shall be  
18 appointed within three months of enactment of this resolution. The commission shall choose  
19 a chairperson from among its members. Any vacancy in the membership shall be filled in  
20 the same manner as the original appointment.

21 **SECTION 2.**

22 (a) The commission shall study all aspects of the death penalty as currently administered in  
23 the State of Georgia, including, but not limited to, the following issues:

24 (1) Whether the selection of defendants in Georgia for capital trials is arbitrary, unfair,  
25 or discriminatory in any way and whether there is unfair, arbitrary, or discriminatory  
26 variability in the sentencing phase or at any state of the process including, but not limited  
27 to, the issue of race, socioeconomic status, or geography;

28 (2) Whether there is a significant difference in the crimes of those selected for the  
29 punishment of death as opposed to those who receive life in prison;

30 (3) Whether the death penalty is serving the needs of families of victims and the general  
31 safety needs of the public, taking into account any other services that might better serve  
32 their needs and whether those services are being provided;

33 (4) Whether the death penalty rationally serves a legitimate penological intent such as  
34 deterrence;

(5) Whether the death penalty as it is currently applied is consistent with evolving standards of decency; and

(6) Whether there is a significant difference between the cost of the death penalty from indictment to execution and the cost of life in prison without parole. In considering the overall cost of the death penalty in Georgia, the cost of all the capital trials that result in life sentences as well as the death sentences that are reversed on appeal must be factored into the equation.

(b) The commission shall review:

(1) The June, 2001, Protocols of the American Bar Association Section of Individual Rights and Responsibilities;

(2) *Mandatory Justice: Eighteen Reforms to the Death Penalty*, a report of The Constitution Project's bipartisan, blue ribbon commission of capital punishment supporters and opponents; and

(3) Other nonpartisan, academic, or government inquiries into the administration of capital punishment at state and national levels.

(c) The commission shall make recommendations to guarantee that the application and administration of capital punishment in this state and the public policy of this state regarding capital punishment is free from bias and error and designed to guarantee fairness and accuracy and propose new legislation, if appropriate.

### SECTION 3.

The commission is entitled to the assistance and service of the employees of any state, county, or municipal department, board, bureau, commission, or agency as it may require and as may be available to it for its purposes and to employ stenographic and clerical assistance.

### SECTION 4.

The commission shall undertake a study of the conditions, needs, issues, and problems mentioned above or related thereto and recommend to the Governor and the General Assembly any action or legislation which the commission deems necessary or appropriate. The commission may conduct such meetings at such places and at such times as it deems necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this resolution. The legislative members of the commission shall receive the allowances provided for in Code Section 28-1-8 of the Official Code of Georgia Annotated. Citizen members shall receive a daily expense allowance in the amount specified in subsection (b) of Code Section 45-7-21 of the Official Code of Georgia Annotated as well as the mileage or transportation allowance authorized for state employees. Members of the commission who are state officials, other than legislative

1 members, and state employees shall receive no compensation for their services on the  
2 commission, but they shall be reimbursed for expenses incurred by them in the performance  
3 of their duties as members of the commission in the same manner as they are reimbursed for  
4 expenses in their capacities as state officials or employees. The funds necessary for the  
5 reimbursement of the expenses of state officials, other than legislative members, and state  
6 employees shall come from funds appropriated to or otherwise available to their respective  
7 departments. All other funds necessary to carry out the provisions of this resolution shall  
8 come from funds appropriated to the House of Representatives and the Senate. The expenses  
9 and allowances authorized by this resolution shall not be received by any member of the  
10 commission for more than ten days unless additional days are authorized. The commission  
11 shall make a report of its findings and recommendations, with suggestions for proposed  
12 legislation, if any; such report shall be made on or before December 31, 2005. The  
13 commission shall stand abolished on December 31, 2005.

#### 14 **SECTION 5.**

15 The General Assembly acknowledges the seriousness of the questions raised herein. The  
16 General Assembly also acknowledges that the commission will need to dispassionately  
17 examine all questions surrounding the use of the death penalty in the State of Georgia. It is  
18 further acknowledged that the pressures of a pending execution might affect the deliberations  
19 of the commission. It is therefore recommended that no execution shall be carried out until  
20 the commission has completed its report. Beginning on the effective date of this resolution,  
21 if an execution warrant has been issued against a defendant, the State Board of Pardons and  
22 Paroles shall stay any such execution, so that no execution shall be carried out prior to the  
23 issuance of the report and final action of the General Assembly and the Governor in response  
24 to the Georgia Capital Punishment Study Commission's report and recommendations.

#### 25 **SECTION 6.**

26 All laws and parts of laws in conflict with this resolution are repealed.